



TOWN OF CLAREMONT

NOTICE OF MEETING

NOTICE IS HEREBY GIVEN that an
ORDINARY Meeting of the Council will be held,
on **TUESDAY 2 AUGUST**, 2016, commencing at **7:00 PM**
at the Town of Claremont, Claremont Council Chambers, 308 Stirling Highway,
Claremont.

Stephen Goode
CHIEF EXECUTIVE OFFICER

Date:

DISCLAIMER

Would all members of the public please note that they are cautioned against taking any action as a result of a Council decision tonight until such time as they have seen a copy of the Minutes or have been advised, in writing, by the Council's Administration with regard to any particular decision.

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**TOWN OF CLAREMONT
ORDINARY COUNCIL MEETING
2 AUGUST, 2016
AGENDA**

- 1 DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS**
- 2 RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE**
- 3 DISCLOSURE OF INTERESTS**
- 4 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**
- 5 PUBLIC QUESTION TIME**
- 6 PUBLIC STATEMENT TIME**
- 7 APPLICATIONS FOR LEAVE OF ABSENCE**
- 8 PETITIONS/DEPUTATIONS/PRESENTATIONS**
- 9 CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS**

That the minutes of the Ordinary Meeting of Council held on 19 July 2016 be confirmed.
- 10 ANNOUNCEMENT OF CONFIDENTIAL MATTERS FOR WHICH MEETING MAY BE CLOSED TO THE PUBLIC**
- 11 BUSINESS NOT DEALT WITH FROM A PREVIOUS MEETING**
- 12 REPORTS OF COMMITTEES**

13 REPORTS OF THE CEO

13.1 CORPORATE AND GOVERNANCE

13.1.1 POLICY REVIEW – PROCUREMENT POLICY LG509

Attachments:	Draft Procurement Policy
File No:	COM/00032
Attachment	Draft Procurement Policy LG509
Responsible Officer:	Les Crichton Executive Manager Corporate and Governance
Author:	Hitesh Hans Manager Finance
Proposed Meeting Date:	2 August 2016

Purpose

Report recommends Council review and adopt its Procurement Policy LG509.

Background

Recent amendments to the *Local Government (Functions and General) Regulations 1996* were published in the *Government Gazette* with effect from 1 October 2015, to increase the tender limit from \$100,000 to \$150,000 and create prequalified supplier panels.

The amendments are a result of recommendations made by the Local Government Steering Committee and the Corruption and Crime Commission (CCC), with the aim of improving the purchase and tendering practices of local government.

A local government may also establish and manage panels of pre-qualified suppliers, through the creation of a written policy permitting the local government to do so. The local government may create a separate policy with respect to panels of pre-qualified suppliers, or define the policy within its existing Purchasing Policy. Panels of pre-qualified suppliers have not been added to Council Policy LG509 and will be subject to a separate policy.

The Town's purchasing quotation/tender thresholds are set by LG509. The value of each purchase of a product or service over the contract period determines the purchasing requirement in each instance.

Procurement Policy LG509 was last reviewed by Council at its 15 December 2015 meeting as part of the review of Councils Policy Manual. There were no amendments to the policy at the time.

Previous reviews of the policy included a full review of all policies on 5 October 2010 and an amendment on 6 March 2012 on completion of a probity review of purchasing practices following the 2010 fire. There were no other significant changes in the annual reviews from 2012 to 2015.

In addition to recognising the amendment to the *Local Government (Functions and General) Regulations 1996*, the policy has been reviewed in line with current best practice and has referenced the recent WALGA Purchasing Policy document.

Discussion

The amendments to the regulations also included changes to

- Anti-avoidance provisions
- Receiving and opening tenders
- Amendments to the prescribed value and disposition of property
- Varying a contract.

A summary of the key amendments are provided below –

Tender Threshold

The tender threshold has been increased from \$100,000 to \$150,000. For the purchase of goods and services under this threshold, the amendments continue the requirement for the purchasing policy to include the minimum number of oral and written quotes that must be received.

If the contract for goods or services is expected to be more than \$150,000 a public tender process is required.

Amendments have been made to Regulation 11(2) which relates to circumstances when tenders do not need to be publicly invited. This includes when goods or services are obtained through:

- The WA Local Government Association preferred supplier program
- A person registered on the Aboriginal Business Directory WA for contracts worth \$250,000 or less or
- An Australian Disability Enterprise.

It is also not necessary to invite public submissions if the term of the original contract is being renewed or extended where:

- (i) the original contract was entered into after a public submission period
- (ii) the invitation to tender included the option for a renewal or extension
- (iii) the original contract contained an option to renew or extend, and
- (iv) the supplier's tender included a requirement for such an option.

Panels of pre-qualified suppliers

The Regulations have been amended to introduce the ability for local governments to create a panel of pre-qualified suppliers. There are some conditions on developing a panel including:

- The need for a local government to develop a written policy outlining how the panel will operate
- How each supplier will be invited to quote
- Consistent communication with the panel
- The recording and retention of quotes and purchases from suppliers.

In establishing a panel, persons are to be publicly invited to apply. State-wide public notice is required and it must be open for at least 14 days following the first notice. There is a range of detailed information that needs to be made available about the proposed panel including: the written policy; details of how the panel will operate; the

period for which the panel will be established; and, the number of suppliers the local government intends to appoint to the panel.

Once a panel has been established, local governments may enter into a contract (or contracts) with any of the pre-qualified suppliers. However, the contract(s) cannot exceed 12 months and cannot contain an option to renew or extend its term. If it is expected that a contract is to exceed 12 months the particular good or service should be put to tender.

Regulation 13 of the *Local Government (Audit) Regulations 1996* has been amended to require local governments to carry out an audit of compliance for panels of tenders in accordance with section 7.13(1)(i) of the *Local Government Act 1995*.

A separate Policy dealing with the establishment and management of supplier panels will be developed separately as required. This will include provision for the audit of supplier panels by the Audit & Risk Management Committee.

The previous WALGA Model Purchasing Policy and the current Council Procurement Policy LG509 thresholds are listed below –

Previous WALGA Model Purchasing Policy Purchase Value Threshold	
Up to \$1,000	At least two oral or written quotations
\$1,001 - \$39,999	At least three written quotations
\$40,000 - \$99,999	At least three written quotations containing price and specification of goods and service.
Over \$100,000	Over \$100,000 Tender required

Current Council Procurement Policy LG509 Purchase Value Threshold	
\$500 to \$999	At least two oral quotations
\$1,000 - \$9,999	At least three oral quotations
\$10,000 - \$49,999	At least three written quotations containing price and specification of goods and service.
\$50,000 - \$99,000	Formal Request for quotations to obtain three written quotes containing price and specification of goods and service.
Over \$100,000	Tender required

It is proposed that the Council adopt the purchase value thresholds as detailed below. It should be noted this table provides a additional approval requirement levels than that provided within the WALGA Model Purchasing Policy.

Proposed Council Procurement Policy LG509 Purchase Value Threshold	
Up to \$1,000	At least one oral or written quotation
Over \$1,000 up to \$5,000	At least two oral or written quotations
Over \$5,000 up to \$15,000	At least three oral or written quotations containing a specification of goods and service.
Over \$15,000 up to \$50,000	At least three written quotations containing a specification of goods and service.
Over \$50,000 up to \$150,000	Formal Request for quotations to obtain three written quotes containing price and specification of goods and

	service.
Over \$150,000	Tender required

Past Resolutions

Ordinary Council Meeting 15 December 2015, resolution 226/15 – Policy review
 Ordinary Council Meeting 9 December 2014, resolution 203/14 – Policy review
 Ordinary Council Meeting 10 December 2013, resolution 360/13 – Policy review
 Ordinary Council Meeting 6 March 2012, resolution 23/12 – Policy modified
 Ordinary Council Meeting 5 October 2010, resolution 210/10 – Policy modified.

Strategic Community Plan

Governance and Leadership

We are an open and accountable local government that encourages community involvement and strives to keep its community well informed.

- Provide and maintain a high standard of governance, accountability, management and strategic planning.
- Focus on improved customer service, communication and consultation.

Financial and Staff Implications

The changes to the Policy have no direct financial impacts on existing budget. The changes will create efficiencies in the tender process as purchases that are now between \$100,000 and \$150,000 can be completed using the major quotations process. Increasing the other procurement levels will further streamline the procurement process.

Policy and Statutory Implications

Section 3.57 - Tenders for providing goods or services, provides that –

(1) A local government is required to invite tenders before it enters into a contract of a prescribed kind under which another person is to supply goods or services.

(2) Regulations may make provision about tenders.

Regulation 11 - When tenders have to be publicly invited -

(1) Tenders are to be publicly invited according to the requirements of this Division before a local government enters into a contract for another person to supply goods or services if the consideration under the contract is, or is expected to be, more, or worth more, than \$150 000 unless subregulation (2) states otherwise.

(2) Local Governments may also use State Government or WALGA Preferred Suppliers Panel, if the value of a purchase is or is expected to be \$150,000 or greater (exclusive of GST).

The *Local Government (Functions and General) Regulations 1996* Regulation 11A requires the Town to have a written Purchasing Policy.

The main implication of the policy change is that, subject to a risk assessment being undertaken, procurements up to \$149,999 may be able to be carried out under the quotation process. The Town will also establish panels of pre-qualified suppliers where most of the following factors apply:

- The Town determines that a range of similar goods and services are required to be purchased on a continuing and regular basis
- There are numerous potential suppliers in the local and regional procurement-related market sector(s) that satisfy the test of 'value for money'
- The purchasing activity under the intended Panel is assessed as being of a low to medium risk
- The Panel will streamline and will improve procurement processes
- The Town has the capability to establish, manage the risks and achieve the benefits expected of the proposed Panel.

Consultation/Publicity

No community consultation has been carried out or required.

Urgency

The Policy review is required to reflect changes to legislation.

Voting Requirements

Simple majority decision of Council required.

Officer Recommendation

That Council adopts the revised Council Procurement Policy LG509 as attached.

14 ANNOUNCEMENTS BY THE PRESIDING PERSON

15 ELECTED MEMBERS' MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**15.1 NOTICE OF MOTION - CR TULLOCH****15.1.1 SECURITY FOR RESIDENT'S SHOWGROUND CONCERTS**

Author: Alastair Tulloch
Councillor

Proposed Meeting Date: 2 August 2016

Moved Cr Tulloch

That Council direct that as a precondition for the approval of the staging of a concert at the Claremont Showground be imposed requiring that the promoter should provide and pay for security guards at each end of Second Avenue, to prevent pedestrians who do not live in Second Avenue from entering the street.

Reasons:

Together with Councillor Goetze I have had meetings with the residents of Second Avenue. An issue which greatly concerns residents is vandalism and trespassing on their properties during RAS concerts. Vehicles accessing Second Avenue are generally not a problem.

Residents have raised their concerns with the RAS and with the State Government. The response of the RAS is that they prefer perimeter control. The difficulty with that policy is that by the time the intruders have reached the perimeter fence they have already clambered over the rooftops and through the gardens of the Second Street residents.

It may also be argued the Security Guards have no authority to stop a pedestrian walking down a street, even though he has evil intent, however the presence of uniformed security staff should act as a deterrent and at least provide some comfort for residents .

CEO comments

Many residents of the Town express concerns about some of the impacts of big events at the Claremont Showgrounds, most concerns are usually about behavioural issues of attendees at major concerts. This is most often worst for those who live in closest proximity to the events, including for example the residents of Second Avenue.

The Town has a limited role with events at the showgrounds and unfortunately has similarly limited powers. There is no doubt that the residents want the Town to do something to improve the situation. They believe that the Town and/or Council has the power to approve or refuse events, which is not correct. Where the Town has a role, the most obvious being in setting noise limits for concerts, it is little more than an advisory role and in the past has been overturned by the Minister for Environment on the advice of his department. Residents have a belief that the Town has greater powers to impose conditions or controls than it does have.

Most unfortunately those that could take control and make a significant and lasting difference choose not to do so. Residents of Second Avenue received a letter from the State Attorney General which was in response to their pleas for the State to help. The letter stated the State does not have any powers to control events at the showgrounds! He wrote that 'The Claremont Showground is managed and operated by the Royal Agricultural Society of WA (RAS) and is not subject to the jurisdiction of the Western Australian Government'. The Attorney General must have been very badly advised for that letter to be sent. It is clearly open to The State Government to insist on proper use and control of activities conducted on the showgrounds by RAS. All the necessary powers exist and it is only that the government, its Ministers and its agencies (other than to some extent the WA Police) refuse to use the powers available to force proper corporate behaviour which prevents changes and improvements being achieved.

The State granted the land to the RAS. There are several parcels of land which make up the holdings referred to as the showgrounds. The land was granted to RAS over a series of dealings as the original showgrounds were expanded by spilling onto adjoining land parcels. Zoning is regional parks and recreation under the Metropolitan Regional Scheme and under TPS3 it is also regional parks and recreation. The original land grants were for the purpose of the Royal Agriculture's Showgrounds. Subsequently those pieces of granted land were made fee simple title.

The State Government could, if it chose to do so, condition the land tenure to impose limits on what it can be used for (when the land was granted it was clearly not for it to be used for large events – other than the Royal Agriculture Show and similar 'bring the country to the city events' and certainly nobody could have envisaged how the activities would be introduced without any planning or control process) and more obviously it could require the RAS to follow appropriate planning processes over the way it uses the land. If the State thinks the powers it has are not sufficient then, if it had the will, it could introduce specific legislation to impose controls. As it often does with legislation, it could follow the example of other states (e.g. Victoria which controls major events at significant venues through its planning legislation. While the planning zoning allows certain activities to occur it does not mean they can occur without conditions applying. For example both the Department of Environment and the local government can and do apply conditions to control nuisance such as noise, time of starting or ending an activity and traffic control. This approach achieves certainty for the venue while also ensuring impacts on the host community are considered and addressed. It sounds so blindly obvious because it is.). This does not have to be particularly onerous or unnecessarily limiting but would simply require an approval process for major events which impact on the community (including a limit on the number of non-core events in any calendar year, requirement to cooperate with the State and the Town over conditions and controls, require the RAS to pay the fair and real costs of controlling the events it hosts and promotes and insist that noise, public safety and nuisance issues are properly addressed). It is a sad indictment that the State would not consider such an approach, and perhaps more so that RAS does not simply adopt such an approach as a good corporate citizen without being forced to do so.

The Town can and does impose traffic control and road closures for major events. The costs of such initiatives are negotiated with RAS and for these requirements RAS has required the event organiser to meet the costs. For the Royal Show the RAS refuses to pay the traffic management costs which transfers this to the Town's ratepayers, placing the Town in the position of allowing total chaos around the Show,

and probably making it very hard for the event to occur (also imposing untenable conditions on the residents), or to meet the costs.

Specific to Second Avenue, for major concerts and events (e.g. Stereosonic, Goodlife and Origin concerts), the Town has agreed to close Second Avenue to traffic on the basis that RAS provide traffic management personnel to control the road closure. On occasion, there have been some modifications to traffic management plans submitted by promoters to assist with orderly traffic movement in the area, and to minimise inconvenience to nearby residents. Closure has also been approved for the Royal Show, but at the Town's cost.

While the Town does control the road closure and manage local vehicle traffic entering into the street, it does not have a power to close the street to pedestrian traffic. Neither the Town's officers nor private event security staff have power to detain or apprehend people who trespass onto private or RAS property (they do not have any more power of arrest than another citizen (Criminal Investigations Act 2006, S25)).

Control of this issue is appropriately with WA Police. Equally, the Town does not and should not provide security services to RAS or promoters for events held at the Showgrounds, inside or outside the grounds.

Past experience has been that most issues impacting Second Avenue properties are people coming by train with no entry ticket looking for vulnerable areas in the showground's fence to gain entry. Security personnel hired by the event promoters monitor the fence lines and close any breach with assistance of the WA Police who issue 'Move on Notices' to those endeavouring to enter the ground unlawfully. The success of the security people and the response of WA Police is apparently more successful sometimes than others (as we have seen through very concerning media coverage at times). This is the major concern for placing a condition as proposed, i.e. without WA Police involvement the security guards have limited capacity to meet the expectation to keep RAS patrons off the street and/or out of private property. Additionally the Town does not actually approve events and it has no direct relationship with the event organiser in most instances (this being between RAS and the promoter). In practice what happens is at some point the Town is informed by RAS of an event and negotiations are undertaken to introduce arrangements which will minimise the impact of the event on the community. The Town can include the proposed requirement for negotiation but it should be recognised that the goodwill of RAS will decide whether or not the event organiser is made to provide the security personnel.

15.1.2 OPERATING FUNDING OF AQUATIC CENTRE

Author: Bruce Haynes
Councillor

Proposed Meeting Date: 2 August 2016

Moved Cr Haynes

That Council agree the projected additional operating deficit resulting from the Claremont Aquatic Centre Development be funded by a commensurate increase in pool entry charges.

Reason: Prudent planning requires that the source of additional expenditure be identified at the point of approval and, as the development is a result of demand from pool users and not the Claremont residents, it is the pool users not the residents who should meet the ongoing shortfall in income.

CEO comment

The costing and funding information relevant to the project is contained in the February report on which Council approved the project (Ordinary Council Meeting 2 February 2016, Resolution 06/16) .

Moved Cr Wood, seconded Cr Goetze

That

1. *Council*
 - 1.1. *Adopt the Aquatic Centre Development Plan as presented;*
 - 1.2. *In accordance with section 6.8(1)(b) of the Local Government Act 1995 approve Stage 1 of the Aquatic Centre Development Plan;*
 - 1.3. *Approves the project Budget of \$8,540,000 with funding to be as detailed within the Alternate Funding Strategy;*
 - 1.4. *Authorises the Chief Executive Officer to engage consultants and/or professional services to undertake the planning and design work to prepare documentation for the required works;*
 - 1.5. *Receive further reports on completion of the design and documentation with pre-tender estimate for approval to call tenders, and milestone reports on outcome of grant applications;*
2. *The Chief Executive Officer prepare and implement a communication plan to inform and advise stakeholders and the Claremont community.*

Carried BY AN ABSOLUTE MAJORITY(06/16)

For the Motion: Mayor Barker and Cr Main, Cr Wood, Cr Browne, Cr Kelly, Cr Mews, and Cr Goetze.

Against the Motion: Cr Tulloch, Cr Haynes and Cr Edwards.

The financial projection relevant to this councillor motion is that based on borrowing \$4 million by a 20 year loan, the projected operating deficit is \$166,000.

The \$166,000 compares to today's figure of \$116,000, that is \$50,000 per annum additional. As advised previously all figures projected for both capital and operating have been based on conservative estimates, i.e. the intention is to build a safe margin for error. Based on an annual operating budget of \$18.5M the projected \$50,000 increase in deficit is minimal, especially considered in the context of:

- a. The project is most probably two years off completion*
- b. We need the customers from outside Claremont to keep the cost of any subsidy by ratepayers down. Without them the subsidy would be much more*
- c. The staff spend a great deal of time working on the fine balance between generating income and raising prices to a point that the customers go to our competitors – we are running a competitive business. At some point we risk customers choosing a different venue and that will have the exact opposite impact to what the motion seeks – the ratepayers will be paying for the lost revenue*
- d. The projections provided for the business case were deliberately conservative—in other words we actually think the income will be better than shown and that is to give a safety margin*
- e. The loan is over 20 years with annual payment of \$374,000. When that is paid off the deficit is projected to be nil – more likely a modest surplus*
- f. The Town's revenue is growing. That is why Council can afford to consider UGP, the golf course, the museum and the aquatic centre. We can fund the projects and operate them and the Town's capacity will increase as the additional rates are generated from the NEP and other development; in other words the % each individual ratepayer will have to subsidise projects such as the aquatic centre, museum etc is going to go down even if the annual operating loss looks bigger.*

**16 NEW BUSINESS OF AN URGENT NATURE APPROVED BY THE PERSON
PRESIDING OR BY DECISION OF MEETING**

17 CONFIDENTIAL MATTERS FOR WHICH THE MEETING MAY BE CLOSED TO THE PUBLIC**17.1 CHIEF EXECUTIVE OFFICER****17.1.1 CONTINUOUS IMPROVEMENT PROJECT****File Ref:****Responsible Officer:** Stephen Goode
Chief Executive Officer**Author:** Stephen Goode
Chief Executive Officer**Proposed Meeting Date:** 2 August 2016

Purpose

It is proposed that the following item be considered in closed session.

OFFICER RECOMMENDATION

That in accordance with Section 5.23 (2) of the *Local Government Act 1995* the meeting is closed to members of the public with the following aspect of the Act being applicable to this matter:

(a) A matter affecting an employee or employees.

18 FUTURE MEETINGS OF COUNCIL

19 DECLARATION OF CLOSURE OF MEETING